

### REMARKS

In response to the Office Action dated May 13, 2004, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 18 through 19 and 28 have been allowed. Claims 10, 13 through 17, and 20-27 stand rejected under 35 U.S.C. § 101 as allegedly claiming the same invention as that of claims 1-11 of related U.S. Patent No. 6,360,214. Applicants' undersigned representative respectfully disagrees.

The present application is a continuation of application number 09/213,087, which has issued as U.S. Patent No. 6,360,214. In an Office Action dated 04/03/01 issued in connection with application number 09/213,087 (copy attached), the Examiner made a restriction requirement and alleged the as-filed application claims were directed to four distinct inventions: group I containing claims 1-9 and 11-12 allegedly "drawn to a database management for managing data;" group II containing claim 10 allegedly directed to "query optimization;" group III containing claims 13-15 allegedly "drawn to selecting an executable procedure from a plurality of procedures in a database;" and group IV containing claims 16-17 allegedly "drawn to statistics in a database (i.e. manipulating data)." The Office Action goes on at length to describe how the various groups of claims are allegedly distinct from each other. In a response transmitted on April 30, 2001, Applicants elected the Examiner's group I, **but reserved the right to pursue the non-elected claims in related applications.** Applicants have since filed the present application and seek to pursue the non-elected claims.

Under 35 U.S.C. § 121, "[a] patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, **shall not be used as a reference** either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them." As noted above, the Patent Office issued a restriction requirement in the parent (serial no. 09/213,087) of the present application, and Applicants seek to prosecute the non-elected claims in the present application. Under 35 U.S.C. § 121, U.S. Patent 6,360,231 **shall not be used as a reference** against the present

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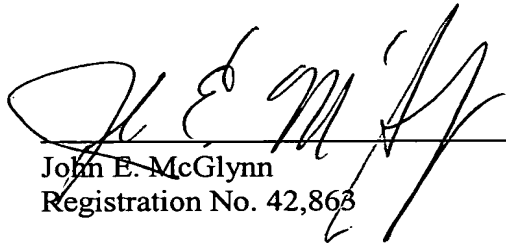
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application. Accordingly, Applicants' undersigned representative requests withdrawal of the rejection.

### **CONCLUSION**

In view of the above remarks, Applicants respectfully submit that the present application is in condition for allowance. Reconsideration of the application and an early Notice of Allowance are respectfully requested.

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